

SPCC Implementation Discussion

David Evans, Director
Oil Program Staff
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Purpose and Goals of Today's Meeting

◆ Purpose is to Communicate....

- Terms of SPCC Settlement
- EPA's views regarding certain additional SPCC issues
- Options for SPCC Implementation

◆ Goals are to...

- Respond to the questions and concerns that have been raised to EPA
- Field your questions for clarifications
- Provide opportunity for follow up responses

Considerations for Implementation Strategy

- ◆ Some revised Rule requirements are uncontested
- ◆ Settlement resolved several significant issues of the revised rule
- ◆ Many remaining issues relate to baseline requirements of SPCC (old rule)
- ◆ Addressing these concerns requires a revisiting of existing regulatory provisions

EPA's Policy Making Discretion

- ◆ Policy discretion can exist when rule/preamble/past policy language supports new policy statement
- ◆ Doesn't exist when new policy statement is at odds/not supported by rule, preamble/past policy
- ◆ DC District Court very clear on this
- ◆ However, within current framework, EPA can specify where Agency resources should be focused

Policy Clarifications and Enforcement Priorities

◆ SPCC Settlement

- Integrity Testing
- Loading Rack/Area
- Security
- Role of Cost in Impracticability Claims
- Oil Production Facilities
- Navigable Waters

◆ Addressing Other Issues

- Compliance Date Flexibility
- Specific Policy Issues
 - ◆ Extension – revised rule issues
 - ◆ Priorities – revised or previous rule issues
- Small Facilities

What about Specific Sectors?

- ◆ Electrical and Animal Fat/Vegetable Oils
- ◆ Aviation, Agriculture, and Construction
- ◆ Settlement terms and other potential policy clarifications, including Small Facility flexibility, cross all sectors
- ◆ EPA believes changes that may impact specific sectors should be done through rulemaking
- ◆ EPA will maintain active dialogue with sectors in the months ahead

EPA's Actions to Implement

◆ Interim Implementation Guidance to Regions

- Program Strategy and Technical policy issue guidance (OSWER Directive)
- Outreach materials, briefing
- Standardized Implementation tools: checklists, sample plans, etc.

◆ Further Rulemaking Likely

- Regulatory Workgroup convened already
- Scope of Rulemaking would focus on policy clarifications and small facilities
- Schedule will be developed over next few months

Implementation Options

- ◆ Further Extension of all revised rule's new/strengthened requirements
 - Realistic timetable for further rulemaking
 - Previous rule requirements remain in effect
 - Revised rule's regulatory relief also in effect
- ◆ Selective Extension of contested requirements of revised rule
 - Complexity of revised rule and previous rule entanglement
 - Needs further consideration before discussing in detail
- ◆ Implement Revised Rule according to National Priorities
 - Inspections and Enforcement
 - Not limited to revised rule requirements
 - Would signal directions of future regulatory changes

Small Facility Initiative

- ◆ Revised rule heightened attention to SPCC, raised awareness among facility types with little experience with SPCC
- ◆ EPA sympathetic with request for assistance and flexibility to increase compliance
- ◆ EPA anticipates streamlined process for compliance by smaller SPCC facilities
- ◆ Goal is increased spill prevention, regulatory flexibility can help us get there

Small Facility Initiative (cont.)

- ◆ SPCC Plans are at heart of spill prevention Interim strategy would be a step/bridge to greater future compliance flexibility, not a signal that EPA would eliminate prevention requirements
- ◆ Small facilities can't afford a spill...prevention a sound investment for all facilities
- ◆ EPA encourages development of generic plans for common facility types
- ◆ Also expect to explore other means to increase small facility compliance

Specific Policy Issues

◆ EPA Panel members include:

- Mark Howard
- Troy Swackhammer
- Patty Fleming
- Hugo Fleischman
- Richard Franklin (OSC, Region 6)

◆ Regulatory Technical Support

- BAH Hotline Staff
- Abt Associates

◆ Any questions before proceeding?